

MAJOR ALLEN FARLEY
Assistant Sheriff



MURRAY TANNER
Executive Assistant

MIKE HALE

SHERIFF OF JEFFERSON COUNTY

LAW ENFORCEMENT BUREAU • 2200 8th AVENUE, NORTH. • BIRMINGHAM, ALABAMA 35203

Consent to Search Premises

State of Alabama
Jefferson County

I, Dorothy Bester, a resident of 1037 Apt. E
Birmingham, Jefferson County, Alabama, do voluntarily
consent and authorize the following Deputy Sheriff's Morris, Finley, Sgt. French
Washington, to search my premises located at 1037 Apt.
E. Bham, to determine whether or not there is any illegal
narcotics or stolen property on my premises. I hereby certify that I am over 18 years of
age and have a possessory interest in the items in the said premises. I have not been made
any threats or promises by the above named personnel, this 24th day of March
2008.

I further affirm that I have been advised of my constitutional rights.

Signed Dorothy Bester
Witness [Signature]
Witness [Signature]

STATE'S
EXHIBIT

15

STATEMENT

Circle one

Victim/Witness:

DOROTHY BESTEL

Address:

[REDACTED]

City/St

[REDACTED]

Phone# HO:

WK:

STATE'S
EXHIBIT

16

Case #: 20080308801

Date: 24 March 2008

Time: 1645

Interviewer: R. Morris

I saw my son come home
with Bays + Left + Two white guys
were with him + he left some
in with the white Bay Behind
the Box

Signature: _____

Witness: _____

EXHIBIT

Courts 1

What does the
law say about
the knowledge of
the use of drugs
+
sell of

OFFICE OF THE DISTRICT ATTORNEY

STATE'S
EXHIBIT

A

BRANDON K. FALLS

District Attorney

Tenth Judicial Circuit
February 23, 2009

TELEPHONE
(205) 325-5252

FAX
(205) 325-5266

Bessemer Circuit Court
Courthouse Annex
1801 3rd Avenue North
Bessemer, AL 35020
Attn: Circuit Court Clerk

801 RICHARD ARRINGTON, JR. BLVD. N.
BIRMINGHAM, ALABAMA 35203-2320

Re: Certified Copies

Dear Clerk:

I am requesting that certified copies of the listed prior convictions for Durrell Bester be mailed to our office. These certified records are needed to sentence this defendant under the Alabama Habitual Felony Offender Act. This information is required by Alabama Law. To help expedite this process, listed below is the personal information that I have on this individual:

Defendant Name: **Durrell Bester**

Dallas:

DOB: **9/12/1980** Social: **423-08-3686**

Race: **Black** sex: **Male**

Please provide as soon as possible.

We are interested in the following offense(s):

DFIOD	CC 1999-0970
DFIOD	CC 1999-1278
UPOM 1	CC 2001-0258
UPOM 1	CC 2001-0259

Please mail a certified copy of these prior convictions to the Jefferson County District Attorney's Office. Our mailing address is:

Office of the District Attorney
Tenth Judicial Circuit
Attention: LawClerks
801 21st Street North
Birmingham, Alabama 35203

Your prompt assistance in this matter will be greatly appreciated. Please feel free to reach me at (205) 325-5252 ext. 264 if you have any questions regarding this matter, have any trouble locating this case or if you need any further information. Thank you very much

Sincerely,
Law Clerk

709 FEB 24 P 3 39

*mailed
CHS
3-10-09*

State of Alabama
Unified Judicial System

Form C-7

Rev 2/79

CASE ACTION SUMMARY
CONTINUATION

Case Number

CC 99-970

Style:

State vs. Bester, Durrell

Page Number

of

Pages

DATE

ACTIONS, JUDGMENTS, CASE NOTES

2/25/00

Y. O. Durrell Case set May 8, 2000

V

The defendant being in open court, accompanied and represented by his attorney of record herein, and the indictment in this cause now having been read to the defendant now being duly arraigned does now plead not guilty, with leave of the court hereby granted to the defendant hereafter, but prior to trial date, to interpose any special pleas which he might legally have interposed prior to entering his said pleas of not guilty. This cause is ordered set for trial.



Judge

I, EARL N. CARTER, JR., AS CLERK OF THE CIRCUIT COURT, TENTH JUDICIAL CIRCUIT OF ALABAMA, RESPECTFULLY CERTIFY THAT THE FOREGOING IS A TRUE, CORRECT AND FULL COPY OF THE INSTRUMENT HEREBY SET OUT AS APPEARS OF RECORD IN SAID COURT.

WITNESS MY HAND AND THE SEAL OF SAID

COURT THIS 10 DAY OF March 2000

CLERK

Earl N. Carter

5/4/00

Motion to Continue (Im)


5/18/2000

Case passed to August 28, 2000 for trial.



Judge

8/28/00

Defendant having failed to comply with the condition of his bond. Defendant ordered placed in the County Jail. Bond set in the amount of no Bond.  Judge

8/29/00

Case passed to Nov 27, 2000



9/15/00

Defendant ordered released from jail condition on complying with T.A.S.C.



State of Alabama
Unified Judicial System

CASE ACTION SUMMARY CONTINUATION

Case Number

CC
1099-970
YR Number

Form C-7 Rev. 2/79

Style:

STATE OF ALABAMA v. Bester, Durrell

Page Number _____ of _____ Pages

DATE

ACTIONS, JUDGMENTS, CASE NOTES

2/27/01

The defendants desire to plead guilty having been made known to the Court, the Court addressed the defendant personally in the presence of his counsel in open court and ascertained that the defendant has a full understanding of what a guilty plea means and its consequences. A rights waiver form was executed by the Court, defendant and counsel for the defendant and is incorporated herein. The Court is satisfied that there is factual basis for the plea.

- ☒ The defendant pleads guilty to Discharge Firearm Into Occupied Vehicle
- ☐ The defendant pleads guilty as youthful offender, underlying charge of _____

Habitual offender hearing held, the Court finds _____ prior felony conviction

Sentencing Hearing ☐ held; ☐ waived. March 10th 4:00p.m.

The Court asked the defendant if he/she had anything to say why the sentence of law should not be imposed against him/her and the defendant having had his/her say or had nothing to say, it is the judgment and sentence of the Court as follows:

The Defendant is sentenced to the custody of _____
The Department of Corrections for a period of 10 year(s); _____ month(s)
day(s). split _____ to serve.

The following costs are assessed against the defendant:

☐ Costs of Court ☐ Victim's Compensation \$

☐ Fine \$ ☐ Fair Trial Tax Fund \$

☐ Restitution to the victim(s) \$

☐ Drug Demand Reduction Act Assessment \$

☐ The payment of Court ordered monies shall be a condition of parole, early release, S.I.R. and work release.

☐ The Clerk is authorized to accept part payments for all Court ordered monies. First payment due on _____ per mo.

☒ The sentence is to be concurrent with the sentence imposed in Case number _____

☒ The defendant is given credit for all of the actual time spent incarcerated awaiting trial of this case unless he was serving time for another offense.

☐ The defendant's application for probation is accepted and the Probation Office is ordered to make an investigation and report its findings to the Court.

Man
Circuit Judge

ACR0369 AL

B

JUDICIAL INFORMATION CENTER

CASE ACTION SUMMARY
CONTINUATIONCASE: CC 1999 001278.00
JUDGE ID: DMP

STATE OF ALABAMA

VS

BESTER DURRELL

DATE

ACTION, JUDGMENTS, CASE NOTES

4/26/00 Case passed to May 31, 2000
Mar P

5/31/00

The defendant being in open court, accompanied and represented by his attorney of record herein, and the indictment being duly arraigned does now plead not guilty, with leave of the court hereby granted to the defendant hereafter, but prior to trial date, to interpose any special plea which he might legally have interposed prior to entering his said pleas of not guilty. This cause is ordered set for trial.

I, CARL N. CARTER, JR., AS CLERK OF THE CIRCUIT COURT, FOR THE JUDICIAL CIRCUIT OF ALABAMA, BESSMER DIVISION, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, CORRECT AND FULL COPY OF THE INSTRUMENT HERewith SET OUT AS APPEARS OF RECORD IN SAID COURT.

WITNESS MY HAND AND THE SEAL OF SAID

COURT THIS 10 DAY OF March 2000

Carl N. Carter

5/31/00

Case assigned Judge Peltier. Defendant - have 2 other case before Judge Peltier. Case passed July 20, 2000
Mar P

8/1/00

Set for trial Sept 25, 2000.

9/26/00

TASC is a condition of bond

9/28/00

Reassign to DMP

10/2/2000

Set for trial November 27, 2000.

2/27/01

Motion by state motion to amend to Discharging Foreman into Occupied Vehicle
Mar P Judge

State of Alabama
Unified Judicial System

CASE ACTION SUMMARY CONTINUATION

Case Number

CC 99 1278
ID YR Number

Form C-7 Rev. 2/79

Page Number _____ of _____ Pages

Style:

STATE OF ALABAMA v. Bester, Nurrell

ACTIONS, JUDGMENTS, CASE NOTES

DATE

2/27/01

The defendants desire to plead guilty having been made known to the Court, the Court addressed the defendant personally in the presence of his counsel in open court and ascertained that the defendant has a full understanding of what a guilty plea means and its consequences. A rights waiver form was executed by the Court, defendant and counsel for the defendant and is incorporated herein. The Court is satisfied that there is factual basis for the plea.

- ☒ The defendant pleads guilty to Discharge Firearm Into Occupied Vehicle
- ☐ The defendant pleads guilty as youthful offender, underlying charge of _____

Habitual offender hearing held, the Court finds _____ prior felony conviction.

Sentencing Hearing ☒ held; ☐ waived. March 6th 4:00 P.M.

The Court asked the defendant if he/she had anything to say why the sentence of law should not be imposed against him/her and the defendant having had his/her say or had nothing to say, it is the judgment and sentence of the Court as follows:

The Defendant is sentenced to the custody of _____ year(s), _____ month(s)
The Department of Corrections for a period of 10 to serve.
day(s). split

The following costs are assessed against the defendant:

☐ Costs of Court ☐ Victim's Compensation \$

☐ Fine \$ ☐ Fair Trial Tax Fund \$

☐ Restitution to the victim(s) \$

☐ Drug Demand Reduction Act Assessment \$

☐ The payment of Court ordered monies shall be a condition of parole, early release, S.I.R. and work release.

☐ The Clerk is authorized to accept part payments for all Court ordered monies. First payment due on _____ per mo.

☒ The sentence is to be concurrent with the sentence imposed in Case number _____

☒ The defendant is given credit for all of the actual time spent incarcerated awaiting trial of this case unless he was serving time for another offense.

☐ The defendant's application for probation is accepted and the Probation Office is ordered to make an investigation and report its findings to the Court.

M. J. [Signature]
Circuit Judge

State of Alabama
Unified Judicial System

Form C-7

Rev 2/79

CASE ACTION SUMMARY CONTINUATION

Case Number

CC99-1278

Style:

State vs. Bester, Durrell

Page Number _____ of _____ Pages

DATE

ACTIONS, JUDGMENTS, CASE NOTES

Y 3/19/01 Sentencing passed to April 19, 2001 at
4:00 p.m. Mr. Bester Judge

Y 4/20/01 Case passed to May 4, 2001. Mr. Bester Judge

State of Alabama
Unified Judicial System

Form C-7

Rev 2/79

CASE ACTION SUMMARY CONTINUATION

Case Number

CC99-1278

Style:

State vs. Bester, Durrell

Page Number _____ of _____ Pages

DATE

ACTIONS, JUDGMENTS, CASE NOTES

5/4/01

Defendant asked if he had anything to say before sentenced pronounced upon him said nothing. Defendant is sentenced to 10 years in penitentiary to run cc with CC99-970; CC01-258; CC01-259. Cost taxed against defendant.

Wm. Bester Judge

001272

ALABAMA JUDICIAL INFORMATION SYSTEM

0000 00 1999 001272 00

END

CASE ACTION SUMMARY
CIRCUIT CRIMINAL

RUN DATE 10/18/1999

THE CIRCUIT COURT OF JEFF-BESSMER

JUDGE: JEP

STATE OF ALABAMA

VS

BESTER DURRELL

00 00 1999 001272 00

DOB: [REDACTED] SEX: M RACE: B HT: 6 00 WT: 180 HR: BLK EYES: BRO
EN: [REDACTED] ALIAS NAMES:FARGE01 ASSAULT 1ST DEGREE COMMO1. ASS1 LIT. ASSAULT 1ST DE TYP. F 4: 01
OFFENSE DATE 08/18/1999 AGENCY/OFFICER 0010000 MALEDATE WAR/LAP ISS: [REDACTED]
DATE INDICTED: 10-06/1999
DATE RELEASED: 08/19/1999
BOND AMOUNT: \$5,000.00DATE ARRESTED: 08/19/1999
DATE FILED: 10/06/1999
DATE HEARING: [REDACTED]
SURETIES: [REDACTED]TE 1: [REDACTED] DESC: [REDACTED] TIME: 0000
TE 2: [REDACTED] DESC: [REDACTED] TIME: 0000

TRACKING NOS. 00 1999 001850 00

DEF/ATY: STREET, STEPHEN W

TYPE: A

TYPE

1021 23RD STREET SOUTH

BIRMINGHAM AL 35205

PROSECUTOR: RUSSELL, SAMUEL L.

CASE: 00199900185000 CHA/TICKET NO. GRAND JURY: 99671
ST REPORTER: SID NO: 000009194
STATUS BOND DEMAND OPER: CMO
ACTIONS, JUDGEMENTS, AND NOTES

10-6-99

Indictment

11-22-99

~~Alias Writ In Arson No Bond. FTA bond 208~~

1/29/99

It being made known to the Court that the defendant in this case is charged with an offense which was committed in his minority, provisions of the Youthful Offender Act having been explained to him, defendant hereby in open court in his own proper person and accompanied by his counsel, consents and request that the court investigate and examine him to determine whether he should be treated as a Youthful Offender and consents to such examination and be tried without a jury with full knowledge that a trial by jury would otherwise be available to him. This matter is referred to the probation office of the State of Alabama in this county to investigate and make report to this court.

Judge

1/29/99

YO applied & denied

Reassigned to Oml - 11034

State of Alabama
Unified Judicial System

Form C-7 Rev. 2/79

CASE ACTION SUMMARY
CONTINUATION

Case Number

CC 01-258
ID YR Number

Style:

STATE OF ALABAMA v. Bester, Durrell

Page Number _____ of _____ Pages

DATE	ACTIONS, JUDGMENTS, CASE NOTES
5/4/01	The defendants desire to plead guilty having been made known to the Court, the Court addressed the defendant personally in the presence of his counsel in open court and ascertained that the defendant has a full understanding of what a guilty plea means and its consequences. A rights waiver form was executed by the Court, defendant and counsel for the defendant and is incorporated herein. The Court is satisfied that there is factual basis for the plea.
	<input checked="" type="checkbox"/> The defendant pleads guilty to PM 51
	<input type="checkbox"/> The defendant pleads guilty as youthful offender, underlying charge of
	Habitual offender hearing held, the Court finds _____ prior felony conviction
	Sentencing Hearing <input checked="" type="checkbox"/> held; <input type="checkbox"/> waived.
	The Court asked the defendant if he/she had anything to say why the sentence of law should not be imposed against him/her and the defendant having had his/her say or had nothing to say, it is the judgment and sentence of the Court as follows:
	The Defendant is sentenced to the custody of _____ year(s), _____ month(s) The Department of Corrections for a period of _____ day(s). split _____ to serve.
	The following costs are assessed against the defendant:
	<input checked="" type="checkbox"/> Costs of Court <input checked="" type="checkbox"/> Victim's Compensation \$50
	<input type="checkbox"/> Fine \$ <input type="checkbox"/> Fair Trial Tax Fund \$
	Restitution to the victim(s) \$
	Drug Demand Reduction Act Assessment \$ 1,000
	The payment of Court ordered monies shall be a condition of parole, early release, S.I.R. and work release.
	The Clerk is authorized to accept part payments for all Court ordered monies. First payment due on _____ per mo.
	The sentence is to be concurrent with the sentence imposed in Case number CC 99-970, CC 99-1278, CC 01-259
	The defendant is given credit for all of the actual time spent incarcerated awaiting trial of this case unless he was serving time for another offense.
	The defendants application for probation is accepted and the Probation Office is ordered to make an investigation and report its findings to the Court.

Circuit Judge

BORDERS72 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 2001 002958.00
 OPER: LIM CASE ACTION SUMMARY
 AGE: 1 CIRCUIT CRIMINAL RUN DATE: 02/02/2001
 IN THE CIRCUIT COURT OF JEFF-BEASME JUDGE: DM

STATE OF ALABAMA VS RESTER DUBRELL
DATE: CP 2001 000356,00

DOB: [REDACTED] SEX: M RACE: B HT: 6 00 WT: 170 HR: SLK EYES: BRO
 AKA: [REDACTED] ALIAS NAMES: BRODERICK JURELL
 CHARGE01: UNLAW DISTRIB CONTROL CONTROL: UNLAW DISTRIB TYPE: F #1 DC1
 OFFENSE DATE: 07/14/2008 AGENCY/OFFICER: COLOMBIA WOODWARD

DATE WAR/CAP ISS:	DATE ARRESTED: 07/14/2000
DATE INDICTED:	DATE FILED: 03/02/2001
DATE RELEASED: 07/14/2000	DATE HEARING:
BOND AMOUNT: \$750.00	SUBTITLES: BILL NALL SENDING CO

```
DATE 1:      DESC:      TIME: 0000
DATE 2:      DESC:      TIME: 0000
```

TRACKING NOS: DC 2000 002257 00 /

DEF/ATY: FANWAL H JARD TYPE: A TYPE:
 142 NORTH 18TH STREET
 BOSTON MA 02109 00000

PROBATIONER, JAMES L. CONNELLEY, JR.

WITH CASE: 002000000222900 CHK/TICKET NO: GRAND JURY:
 COURT REPORTER: BID NO: 000259194
 JURY STATUS: BOND DEMAND: OPER: LIA

DATE ACTIONS, JUDGEMENTS, AND NOTES

2/28/01 DA Complaint (dm)

3/19/01 Case passed 4/19/01 Mrs. [Signature]

4/26/01 Case passed to May 4, 2001. Mrs. [Signature] Judge

State of Alabama
Unified Judicial SystemSTATE'S
EXHIBITCASE ACTION SUMMARY
CONTINUATION

Case Number:

CC 01-259
10 YR Number

Form C-7 Rev. 2/79

Style:

STATE OF ALABAMA v. Bester, DurrellPage Number of Pages

DATE	ACTIONS, JUDGMENTS, CASE NOTES
5/4/01	The defendants desire to plead guilty having been made known to the Court, the Court addressed the defendant personally in the presence of his counsel in open court and ascertained that the defendant has a full understanding of what a guilty plea means and its consequences. A rights waiver form was executed by the Court, defendant and counsel for the defendant and is incorporated herein. The Court is satisfied that there is factual basis for the plea.
	<input checked="" type="checkbox"/> The defendant pleads guilty to <u>PMJ1</u>
	<input type="checkbox"/> The defendant pleads guilty as youthful offender, underlying charge of <u> </u>
	Habitual offender hearing held, the Court finds <u> </u> prior felony conviction
	Sentencing Hearing <input checked="" type="checkbox"/> held; <input type="checkbox"/> waived.
	The Court asked the defendant if he/she had anything to say why the sentence of law should not be imposed against him/her and the defendant having had his/her say or had nothing to say, it is the judgment and sentence of the Court as follows:
	The Defendant is sentenced to the custody of <u> </u> The Department of Corrections for a period of <u>10</u> year(s); <u> </u> month(s) day(s). split to serve.
	The following costs are assessed against the defendant:
	<input checked="" type="checkbox"/> Costs of Court <u> </u> <input checked="" type="checkbox"/> Victim's Compensation \$ <u>50</u>
	<input type="checkbox"/> Fine \$ <u> </u> <input type="checkbox"/> Fair Trial Tax Fund \$ <u> </u>
	<input type="checkbox"/> Restitution to the victim(s) \$ <u>4,000.00</u> <u>ch</u>
	Drug Demand Reduction Act Assessment \$ <u>1,000.00</u>
	The payment of Court ordered monies shall be a condition of parole, early release, S.I.R. and work release.
	The Clerk is authorized to accept part payments for all Court ordered monies. First payment due on <u> </u> per mo.
	The sentence is to be concurrent with the sentence imposed in Case number <u>0099-970, 0099-1278, CC01-258</u>
	The defendant is given credit for all of the actual time spent incarcerated awaiting trial of this case unless he was serving time for another offense.
	The defendants application for probation is accepted and the Probation Office is ordered to make an investigation and report its findings to the Court.

I, W. M. Bester, Jr., AS CLERK OF THE CIRCUIT COURT, TENN. JUDICIAL CIRCUIT OF ALABAMA, BESENER DIVISION, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, CORRECT AND FAIR COPY OF THE INSTRUMENT HEREWITH SET OUT AS APPEARS OF RECORD IN SAID COURT.

WITNESS MY HAND AND THE SEAL OF SAID

COURT, THIS 10 DAY OF May, 2007W. M. Bester, Jr. CLERK

W. M. Bester, Jr.
Circuit Judge

ACR00372 ALABAMA JUDICIAL INFORMATION SYSTEM CASE: CC 2001 000259.00
 OFFER: LIM CASE ACTION SUMMARY
 PAGE: 1 CIRCUIT CRIMINAL RUN DATE: 02/02/2001
 IN THE CIRCUIT COURT OF JEFF-BESMR JUDGE: DMF

STATE OF ALABAMA VS BESTER DURRELL
CASE: CE 2001 000259.00

DOB: [REDACTED] SEX: M RACE: B HT: 6 00 WT: 170 HIR: BLK EYES: BRO
 ALIAS NAMES: [REDACTED] [REDACTED]
 CHARGES: PROBATION REV *Pass Navy* CODED: [REDACTED] PREV LIT: PROBATION REV TYPE: F #: 001
 OFFENSE DATE: 07/14/2000 AGENCY/OFFICER: 0010:ELI WOODWARD

DATE WAR/CAP IGB:	DATE ARRESTED:	07/14/2000
DATE INDICTED:	DATE FILED:	03/02/2001
DATE RELEASED:	DATE HEARING:	
AMOUNT:	BURETTERS:	BILL NALL BONDING CO

DATE	TIME	DATE	TIME
DATE	TIME	DATE	TIME

TRACKING NOS: 00 2000 002240 00 /

DEF/ATV: FAWWAL H JADO
312 NORTH 18TH STREET
BIRMINGHAM AL 35200

TYPE

00000

ADDITIONAL: REGEL CONTEL

WITH CASE: 03220000002224000 CNK/TICKET NO: GRAND JURY:
 COURT REPORTER: SJU NO: 000254194
 ATT. STATUTORY: 0000 DEMAND: OFFER: LIM

DATE ACTIONS, JUDGEMENTS, AND NOTES

2/28/01 DA Complaint (b7c)

3/19/01 Case passed 4/19/01 Mar Furr

4/26/01 Case passed to May 4, 2001. Mar Furr Judge

**INDEX OF EXHIBITS RETAINED IN TRIAL COURT
ARAP - RULE 10**

APPELLANT, DURRELL BESTER

VS

APPELLEE, STATE OF ALABAMA

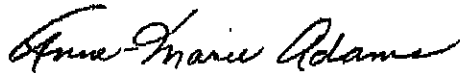
CASE NUMBER: CC 08 3771-3772

**LIST OF EXHIBITS RETAINED IN THE TRIAL COURT WHICH CANNOT BE LEGIBLY
PHOTOCOPIED:**

**STATE'S EXHIBIT 11
STATE'S EXHIBIT 12
STATE'S EXHIBIT 13
SATAE'S EXHIBIT 14**

**BLACK BOX/TRUCK
EVD. INSIDE RESIDENCE
DRUG PAR
COCAINE**

**ANNE-MARIE ADAMS, CLERK
CIRCUIT COURT, CRIMINAL DIVISION**



DATE: NOVEMBER 30, 2009

AUG 28 2009

State of Alabama Unified Judicial System Form ARAP-1C 8/91	REPORTER'S TRANSCRIPT ORDER - CRIMINAL <small>See Rules 10(c) and 11(b) of the Alabama Rules of Appellate Procedure (A.R.App.P.)</small>	Criminal Appeal Number CR - 08-1636
--------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------

TO BE COMPLETED BY COUNSEL FOR THE APPELLANT OR BY THE APPELLANT IF NOT REPRESENTED AND FILED WITH THE WRITTEN NOTICE OF APPEAL OR FILED WITHIN 7 DAYS AFTER ORAL NOTICE OF APPEAL IS GIVEN.

☒ **CIRCUIT COURT** ☐ **DISTRICT COURT** ☐ **JUVENILE COURT** OF Jefferson COUNTY
Durrell Bester, Appellant

v. ☒ **STATE OF ALABAMA** ☐ **MUNICIPALITY OF** _____

Case Number <u>CC 08 3371 CC08 3372</u>	Date of Judgment/Sentence/Order <u>5/26/2009</u>
Date of Notice of Appeal Oral: _____ Written: <u>7/8/2009</u>	Indigent Status Granted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

PART 1. TO BE SIGNED IF THE APPEAL WILL NOT HAVE A COURT REPORTER'S TRANSCRIPT:
 I CERTIFY THAT NO REPORTER'S TRANSCRIPT IS EXPECTED AND THAT THE RECORD ON APPEAL SHALL CONSIST OF THE CLERK'S RECORD ONLY. IF THE APPEAL IS FROM DISTRICT COURT OR JUVENILE COURT, I ALSO CERTIFY (1) THAT A STIPULATION OF FACTS WILL BE INCLUDED IN THE CLERK'S RECORD AND THAT THE APPELLANT WAIVES HIS RIGHT TO A JURY TRIAL IF SO ENTITLED; OR (2) THAT THE PARTIES HAVE STIPULATED THAT ONLY QUESTIONS OF LAW ARE INVOLVED AND THAT THE QUESTIONS WILL BE CERTIFIED BY THE JUVENILE / DISTRICT COURT FOR INCLUSION IN THE CLERK'S RECORD (SEE RULE 28(A)(1), ALABAMA RULES OF JUVENILE PROCEDURE, AND §12-12-72, CODE OF ALABAMA 1975).

Signature _____ Date _____ Print or Type Name _____

PART 2. DESIGNATION OF PROCEEDINGS TO BE TRANSCRIBED. Request is hereby made to the court reporter(s) indicated below for a transcript of the following proceedings in the above referenced case (see Rule 10(c)(2), Alabama Rules of Appellate Procedure (A.R.App.P.)):

MARK PROCEEDINGS REQUESTED:

A. <input checked="" type="checkbox"/> TRIAL PROCEEDINGS - Although this designation will include the judgment and sentence proceedings, a transcript of the organization of the jury and arguments of counsel must be designated separately.	COURT REPORTER(S) <u>Alicia Martin</u>
B. <input checked="" type="checkbox"/> ORGANIZATION OF THE JURY - This designation will include voir dire examination and challenges for cause. Note that in noncapital cases the voir dire of the jury will not be recorded unless the trial judge so directs. (See Rule 19.4, A.R.P.)	<u>Alicia Martin</u>
C. <input checked="" type="checkbox"/> ARGUMENTS OF COUNSEL - Note that in noncapital cases the arguments of counsel will not be recorded unless the trial judge so directs. (See Rule 19.4, A.R.P.)	<u>Alicia Martin</u>

IN ADDITION TO ANY PROCEEDINGS DESIGNATED ABOVE, SPECIAL REQUEST IS HEREBY MADE TO INCLUDE THE FOLLOWING PROCEEDINGS IN THE REPORTER'S TRANSCRIPT PORTION OF THE RECORD ON APPEAL (ATTACH ADDITIONAL PAGES IF NECESSARY):

ADDITIONAL PROCEEDINGS REQUESTED	DATE	COURT REPORTER(S)
D. _____	_____	_____
E. _____	_____	_____
F. _____	_____	_____
G. _____	_____	_____

IMPORT NOTICE : The court reporter who reported the proceedings for which a transcript is requested must be identified on this form to be effective. Additionally, it is important to note that the appellant may not be permitted to raise any issue on appeal relating to any proceedings in the case that are not specifically designated on this form for inclusion in the reporter's transcript. A general designation such as "all proceedings" is not sufficient. (See Rule 10(c)(2), A.R.App.P.)

PART 3. MUST BE SIGNED IF THE APPEAL WILL HAVE COURT REPORTER'S TRANSCRIPT:
 I CERTIFY THAT I HAVE DISTRIBUTED THIS FORM AS SET OUT BELOW. I ALSO CERTIFY (1) THAT I HAVE MADE SATISFACTORY FINANCIAL ARRANGEMENTS WITH EACH COURT REPORTER LISTED ABOVE FOR PREPARING HIS OR HER PORTION OF THE REPORTER'S TRANSCRIPT HEREIN REQUESTED; OR (2) THAT THE APPELLANT PROCEEDED AT TRIAL AS AN INDIGENT AND THAT STATUS HAS NOT BEEN REVOKED; OR (3) THAT THE APPELLANT HAS BEEN GIVEN PERMISSION TO PROCEED ON APPEAL IN FORMA PAUPERIS.

Signature _____ Date 8/28/2009 Print or Type Name Mark W. W. W.

DISTRIBUTION : Original filed with Clerk of Trial Court and copies mailed to: (1) Clerk of the Court of Criminal Appeals, (2) the District Attorney, (3) the Attorney General or the municipal prosecutor in lieu of the District Attorney and the Attorney General if the appeal is from a municipal conviction, and (4) to each Court Reporter who reported proceedings designated for inclusion in the reporter's transcript.

1 ORIGINAL

2 STATE OF ALABAMA
3 IN THE CIRCUIT COURT

4 OF THE TENTH JUDICIAL CIRCUIT
5 FOR JEFFERSON COUNTY, ALABAMA
6 CRIMINAL DIVISION

7 DURRELL BESTER,

8
9 APPELLANT,

10
11 VS.

Case Number: CC2008-3771,

12 CC2008-3772

13 STATE OF ALABAMA,

14 FILED IN OFFICE
CIRCUIT CRIMINAL

15 APPELLEE.

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19 COURT REPORTER'S OFFICIAL TRANSCRIPT
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21 The above-entitled case came on to be heard
22 before the Honorable Clyde E. Jones, Judge, on the
23 6th day of April, 2009 at or about 9:00 a.m.
24 before Alicia Martin, Official Court Reporter and
25 Commissioner.

APPEARANCES

Representing the State of Alabama:

Mr. Mike Anderton,
Deputy District Attorney

Representing Defendant Bester:

Mr. William Benson,
Attorney at Law
Birmingham, Alabama

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PROCEEDINGS

April 6th, 2009 - 2:20 p.m.

(Whereupon, the following was heard in open court with the Defendant and all counsel present.)

THE COURT: All right. This is State of Alabama vs. Durrell Bester, CC08-3771.

Mr. Bester has three charges. Trafficking in cocaine, failure to affix a tax stamp and possession of drug paraphernalia.

Are you going to proceed with those three charges, State?

MR. ANDERTON: Yes, sir.

THE COURT: All right, then. The Defendant is represented by William Benson.

You have something?

MR. BENSON: I do, Your Honor.

I apologize, first, for not having a written motion, but I would like to do a motion to suppress the evidence.

I think what the State is going to

1 contend in this case was that --

2 THE COURT: I think we need to put this
3 stuff about this offer, first, on the
4 record.

5 MR. BENSON: Okay.

6 MR. ANDERTON: Judge, the State of
7 Alabama would like to place on the record
8 that in this case, of course, as the Court
9 has listed Mr. Bester is looking at a charge
10 of trafficking in cocaine. Which is a Class
11 A felony here in the State of Alabama.
12 Under the Alabama Habitual Offender Act,
13 Mr. Bester would be looking at -- Well, the
14 trafficking in cocaine would normally be a
15 10 to 99 to life. Mr. Bester, from the
16 State's information, has four prior felony
17 convictions which would make Mr. Bester
18 looking at a sentence of either life or life
19 without parole, under the Alabama Habitual
20 Offender Act.

21 THE COURT: Is that left to the Judge's
22 discretion?

23 MR. ANDERTON: Yes, sir. Yes, sir.
24 That would be within the Judge's discretion.
25 Now, the State, if there is a

1 conviction in this case, would certainly
2 make the argument to the Court that
3 Mr. Bester should be sentenced to life in
4 prison without the possibility of parole
5 based on the fact, and we would argue to the
6 Court, that he is in fact a violent
7 offender. And that would be based, Your
8 Honor, on the fact that there are two -- two
9 of Mr. Bester's convictions, prior
10 convictions, are for discharging a firearm
11 into an occupied dwelling.

12 In each of those cases, I believe, he
13 actually pled to discharging into an
14 occupied vehicle. But was sentenced to ten
15 years on each one of those cases in front of
16 Judge Parsons. The other two convictions
17 are two different convictions of possession
18 of marijuana first-degree. Out -- and,
19 again, out in the Bessemer Division of
20 Jefferson County.

21 Giving him a total of four, but if the
22 Court -- I mean, if the State made the
23 argument to the Court, and the Court
24 accepted that State's argument, that
25 Mr. Bester was in fact a violent offender,

1 he would be looking at a sentence up to life
2 without parole.

3 We, the State of Alabama, has made an
4 offer to Mr. Bester to plead guilty, in
5 fact, to the trafficking and tax stamps, and
6 the drug paraphernalia - which is a
7 misdemeanor - plead guilty and receive a
8 life sentence. At that point, Mr. Bester
9 would, in fact, be able to be paroled at
10 some point. Under the life without parole,
11 which is what the State would push for if
12 there is a jury trial and a conviction, then
13 he would not be eligible for parole.

14 And I wanted to put that on the record
15 so that the Court knew that, and so that
16 anybody who may look at this later on, will
17 certainly be apprised that Mr. Bester was
18 told what the potential punishments in these
19 cases are.

20 THE COURT: All right, Bill.

21 MR. BENSON: Your Honor, I'll save any
22 argument as far as the sentencing guidelines
23 should that time come necessary.

24 THE COURT: But I need something --
25 Mr. Bester --

1 MR. BENSON: I will state, Your Honor,
2 that my client contends he only has one
3 prior conviction of discharging a firearm
4 into a vehicle.

5 Should it become necessary, I'll be in
6 touch -- I'll be in touch with his attorney
7 on those just to make sure the information
8 the State has provided is correct.

9 THE COURT: Well, you know, at this
10 point, it seems to me that both sides ought
11 to know how many prior felonies this man
12 has. And he should know. And counsel
13 should know. So that there isn't any
14 question about it. I would hate for him to
15 file a Rule 32 and say, well, my lawyer
16 didn't find out I had three prior
17 felonies -- even though he's telling you he
18 only has one, now, Billy.

19 MR. BENSON: Uh-huh.

20 THE COURT: And then, he said, well, if
21 you know my lawyer had told me I did have
22 three instead of one, then, you know, I
23 wouldn't have went to trial. You know.

24 So I don't understand why it is not
25 clear how many priors -- Do you have some

1 details Mike --

2 MR. BENSON: The State has provided me
3 copies -- the certified copies of those
4 records. I have shown those to my client.

5 And he still contends that there's only
6 one prior conviction --

7 MR. ANDERTON: Your Honor, for the
8 record, the State would represent to the
9 Court that we have four different case
10 numbers. Again in the Bessemer Division of
11 Jefferson County, CC99-0970. Which is a
12 discharging a firearm into an occupied
13 dwelling.

14 CC99-1278, which is a discharging a
15 firearm into an occupied dwelling.

16 CC2001-0258, which is a possession of
17 marijuana first-degree.

18 And CC2001-0259, which is also a
19 possession of marijuana in the first-degree.

20 Your Honor, the Defendant may be under
21 the mistaken impression that because the two
22 discharging were pled guilty to on the same
23 day, they only count as one offense. He may
24 also be under the misunderstanding that
25 because the two possessions of marijuana

1 were pled guilty on the say same date, that
2 that is only a single conviction. And I
3 believe the State of Alabama -- the law here
4 in the State of Alabama has ruled that each
5 one of these would be in fact a conviction.
6 Giving him a total of four.

7 THE COURT: That's correct.

8 Well, Mr. Bester, you've heard these
9 statements by the DA; have you not?

10 THE DEFENDANT: Yes.

11 THE COURT: And what he's saying at
12 this point is that you're looking at life or
13 life without parole. And they're offering
14 you a life -- a recommendation of a life
15 sentence if you choose to plead guilty
16 today.

17 And I need to know that you understand
18 that, and understand that from what I'm
19 hearing there's a possibility that you could
20 receive a sentence of life without parole.

21 If it was shown that you had at least
22 three prior felony convictions, do you
23 understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: All right.

1 And you wish to exercise your right to
2 a trial by jury or you wish to take the
3 State's offer of life?

4 THE DEFENDANT: I'm going to take my
5 right.

6 THE COURT: Sir?

7 (No response.)

8 THE COURT: Sir? I didn't hear you,
9 I'm sorry.

10 THE DEFENDANT: Could you repeat the
11 question?

12 MR. BENSON: Do you want the jury trial
13 or do you want to take the plea?

14 THE DEFENDANT: I really want to hire
15 me another lawyer. Because I feel I'm not
16 represented right.

17 THE COURT: Well, I didn't ask you
18 that. I need to know, we got a jury right
19 outside this courtroom, ready to go, and I
20 need to know if you want to take the life
21 sentence or do you want to go to trial?

22 (No response.)

23 (Brief Pause.)

24 MR. ANDERTON: Obviously, I'm not
25 trying to speak for Mr. Bester. Obviously,

1 but, I guess I just want to make it clear,
2 that there is a difference between a life
3 sentence and a life without parole sentence.
4 And perhaps Mr. Bester does not grasp the
5 difference.

6 THE COURT: Well, I think Mr. Bester
7 understands that life without parole means
8 you never get out of prison.

9 And a regular life sentence means that,
10 at some point, you would be eligible for
11 parole.

12 MR. ANDERTON: All right. Thank you.

13 MR. BENSON: Your Honor, at this time,
14 I think -- I mean, I'm sort of at a
15 difficult position here. My client has
16 asked for a new attorney, I would
17 respectfully request this Court to grant his
18 wish, if he doesn't feel like he's getting
19 the quality of representation he needs,
20 then --

21 THE COURT: I don't wait till the
22 moment of trial --

23 MR. BENSON: I understand, Judge --

24 THE COURT: -- to deal with attorney
25 issues.

1 Okay. So you understand that you wish
2 to proceed to trial; is that correct, Mr.
3 Bester?

4 THE DEFENDANT: I guess, yeah.

5 THE COURT: All right. You said you
6 had something on a motion to suppress,
7 Billy?

8 MR. BENSON: Yes, sir, on a motion to
9 suppress, Judge.

10 I believe what the State -- the
11 evidence the State will present, will be
12 that my client was under surveillance by the
13 police officers. He was seen leaving his
14 residence with a bag. And got into a pickup
15 truck belonging to another individual.

16 They followed him to his mother's
17 residence. He took the bag upstairs, then
18 came back downstairs without the bag. Left
19 with those individuals. Police continued to
20 follow the vehicle, pulled the vehicle over.

21 That's when they found the
22 paraphernalia. Then, went back to the
23 mother's residence. At that time, again,
24 this is what I believe the State is going to
25 state. The police officers asked the mother

1 if they can come in and search the
2 residence. And that she agreed to let them
3 come in and search. And directed them to
4 where Mr. Bester placed the bag.

5 Your Honor, I've spoken with Mr.
6 Bester's mother, the State has provided a
7 copy of the consent to search premises,
8 which she signed. Which she does
9 acknowledge signing. But she states that
10 she was not -- She has a 7th grade reading
11 level. That she did understand what she was
12 signing, was not informed of what she was
13 signing. And even when she did sign it, it
14 was signed after the search was conducted.

15 So on those grounds I would ask this
16 Court to suppress the evidence as an illegal
17 search, and that it was not a valid consent.

18 (Brief pause.)

19 MR. BENSON: It was not a search
20 warrant, it was a "stop and knock", I think
21 is what they call it.

22 THE COURT: Well, I will listen --

23 MR. BENSON: The mother is here.

24 THE COURT: -- carefully, as I do in
25 every case, to the facts. And I will allow

1 you to renew your motion to suppress, along
2 with your timely motion for judgement of
3 acquittal at the conclusion of all the
4 evidence in the case.

5 MR. BENSON: Thank you, Judge.

6 THE COURT: All right.

7 (Whereupon, State's Exhibit
8 Numbers 1 through 14 were marked
9 for identification.)

10 V O I R D I R E.

11 April 6th, 2009 - 2:30 p.m.

12 (Whereupon, the following was in
13 open court with the Defendant and
14 counsel present.)

15 (Whereupon, a jury venire was
16 brought in and sworn, the
17 indictment was read, the venire
18 was qualified and identified,
19 after which the following was had
20 and done.)

21 (Whereupon, special questions on
22 voir dire examination were asked
23 of the jury venire by counsel for
24 the State, there being no
25 objections or exceptions taken

1 thereto.)

2 THE COURT: Ladies and gentlemen, we
3 are going to break right now, for the
4 evening.

5 I need you all to be back in the
6 courtroom about 10 till 9. About 10 till 9,
7 by the clock in the back of the courtroom.

8 Please, don't go back across the street
9 to the big jury room, okay. Please, come
10 here to the 7th floor of the Criminal
11 Justice Building, Judge Jones's courtroom,
12 all right.

13 You all don't know anything about the
14 facts of this case. Please, don't make any
15 decisions, please don't rush to any
16 conclusions. You only make a decision when
17 you have heard all of the evidence in the
18 case.

19 Does anyone have any questions about
20 tomorrow morning?

21 A JUROR: What time you say?

22 THE COURT: About 10 till 9. About ten
23 till nine. And if you want to come a little
24 earlier, Neil, will have you a pot of coffee
25 back there.

1 But y'all come back here in the
2 morning. And don't discuss the case. We
3 haven't talked about any address.

4 When we come back in the morning, we
5 will pick up where we left off. We will
6 listen to the defense questions at that
7 time. Then we will select our jury. And
8 we'll get your number down to 13. Which
9 will give us 12 jurors with an extra in case
10 we have an emergency.

11 Does anyone have a question?

12 Everyone know where they parked?

13 Yes, sir?

14 JUROR: So just to clarify, we won't go
15 to the regular jury room tomorrow morning,
16 we'll come straight to this building --

17 THE COURT: Exactly.

18 JUROR: -- we don't check in over
19 there?

20 THE COURT: We are still in jury
21 selection here.

22 JUROR: Okay.

23 THE COURT: So once I get 13 of you
24 selected, then I will release the other ones
25 to go back over there for further service

1 during the week.

2 JUROR: Yes, sir.

3 THE COURT: Okay. All right, any other
4 questions?

5 (No response.)

6 THE COURT: Very good. All right.

7 You all have a good and safe evening.
8 And I'll see you in the morning at 10 till
9 9.

10 (Whereupon, the jury venire was
11 released at 4:15 p.m.)

12 MR. BENSON: Are you going to reinstate
13 my client's bond?

14 THE COURT: Nope. I'm not.

15 MR. BENSON: I would ask that you
16 reconsider. He hasn't violated his bond.
17 He's shown up for court every time.

18 THE COURT: He's looking at what?

19 MR. BENSON: He's looking at life.

20 THE COURT: Or life without?

21 I'll feel better knowing I've got him
22 here.

23 (Whereupon, on April 6th, 2009
24 court was adjourned to April 7th,
25 2009 at 9:00 a.m.)

PROCEEDINGS

April 7th, 2009 - 9:00 a.m.

(Whereupon, the following was heard in open court with the Defendant and all counsel present.)

THE COURT: All right. Good morning, ladies and gentlemen.

We are going to continue with jury selection this morning. And I think the State had finished on yesterday evening. So now, we will turn now to the defense.

And Billy, you have the floor.

(Whereupon, special questions on voir dire examination were asked of the jury venire by counsel for the defendant, there being no objections or exceptions taken thereto.)

(Whereupon, a short recess was had, after which thirteen jurors were selected and the following proceedings were had.)

THE COURT: What says the State?

MR. ANDERTON: The State is satisfied,

1 Your Honor.

2 THE COURT: What says the defense?

3 MR. BENSON: The defense is satisfied,
4 Your Honor.

5 THE COURT: Ladies and gentlemen, to
6 those of you all who were not selected, we
7 thank you and appreciate your service in
8 jury selection in this case.

9 Would you please return to the big jury
10 room across the street for further service
11 during week? Have a great week.

12 (Whereupon, those not selected
13 were released.)

14 THE COURT: All right, ladies and
15 gentlemen, let's talk a bit. Try to get you
16 orientated.

17 A JUROR: Your Honor? I believe I need
18 to speak with you and counsel in chambers
19 before we get started.

20 Or there's something I need to discuss
21 with you.

22 THE COURT: Okay. Come on back in
23 chambers.

24 (Whereupon, the following was
25 heard in chambers with the

1 defendant and all counsel, along
2 with the juror.)

3 THE COURT: Okay. Ms. McAlister, you
4 have something you want to tell the Court?

5 JUROR: Yes, sir. Just before we get
6 started, I wanted to let you know that I did
7 leave when you gave us the break, and I
8 don't know if these were Mr. Bester's
9 friends or family that were sitting behind
10 me. But they were having discussions about,
11 it sounded like whether they believe the
12 search warrant was proper or not.

13 And also heard a statement, "I know he
14 doesn't want to go back to jail," and I
15 don't know if that means his initial arrest
16 or he's been priorly convicted of another
17 crime. And I don't believe that would
18 influence my decision. I certainly know I
19 don't consider that evidence. But I just
20 wanted to make all the parties aware that I
21 heard these discussions.

22 THE COURT: Okay. Would you do me a
23 favor and have a seat right outside there,
24 please?

25 (Whereupon, the juror complies.)

1 THE COURT: They shouldn't have been
2 talking in the courtroom.

3 MR. BENSON: I will certainly instruct
4 them to cease and desist, Your Honor, I
5 apologize.

6 THE COURT: Well, I only have one
7 extra.

8 MR. ANDERTON: Judge, of course --

9 THE COURT: Wasn't she the last one to
10 come on the jury?

11 MR. ANDERTON: She was, yes, Your
12 Honor. Mr. Jenkins was sitting next to her,
13 and I don't know how long these discussions
14 have been going on. Or if Mr. Jenkins or
15 any of the other jurors heard Mr. Bester's
16 family speaking in those terms. How long
17 they've been doing, how loud they've been
18 doing it, even during the break while --
19 before we reconvened this time.

20 I don't know. I know Mr. Jenkins is on
21 the last guy - I can't remember his name,
22 he's not on - he's not on, I don't think,
23 concern.

24 But Ms. McAlister and Mr. Jenkins were
25 on that final row.

1 THE COURT: Right, right.

2 Maybe he left during the break.

3 MR. BENSON: I believe he did, Your
4 Honor.

5 THE COURT: I don't know, I wasn't out
6 there.

7 MR. ANDERTON: Of course, I don't
8 either.

9 But I also don't know if they continued
10 these discussions while the jurors were back
11 in the room. But, talking about the facts
12 of the case, like that, around people that
13 they know are potential jurors in this case.

14 (Brief pause.)

15 THE COURT: All right. What do you
16 suggest we do with her?

17 We could excuse her. And just let her
18 be the alternate.

19 MR. ANDERTON: She has said -- she has
20 said that, you know, she doesn't consider
21 that evidence.

22 MR. BENSON: Right.

23 MR. ANDERTON: And she was quite
24 honestly forthright enough to come to the
25 Court on her own, and not even in answering

1 a question, "Do you need to talk to us in
2 the back room?", she kind of did it on here
3 own.

4 THE COURT: She is the alternate.

5 MR. BENSON: Right.

6 THE COURT: I guess, we can just tell
7 her don't talk to anybody else.

8 MR. BENSON: And Your Honor, she is an
9 attorney --

10 THE COURT: But there is risk of
11 contamination.

12 I'm sorry?

13 MR. BENSON: She is an attorney, if I
14 remember correctly. And so I think that,
15 you know, she's aware of the process and
16 can put that aside.

17 THE COURT: Well, I don't want him
18 coming up later saying, well, my attorney
19 should have got her off the jury, so I
20 didn't have fair trial, so give me a new
21 trial.

22 I'm thinking the safest thing to do is
23 just exclude her. I mean, she seems like
24 she's a real, you know, nice lady, and would
25 be a good juror. But as it stands, she's

1 the alternate.

2 So since she's already the alternate.

3 And this case is not going to last but
4 a day, right?

5 MR. ANDERTON: I wouldn't expect it to
6 be any more than that.

7 THE COURT: So I think the safest thing
8 to do, and the best thing to do for him, so
9 as not to help make any issues. Is just to
10 be exclude her and let her go. Before she
11 has any contact with the other jurors. And
12 that way he can't speculate as to whether or
13 not she said something to somebody during a
14 break, or lunch, or while they, you know,
15 back in the jury room.

16 MR. ANDERTON: Judge, may I make the
17 suggestion, that we give Mr. Benson and
18 Mr. Bester a moment to talk among
19 themselves? It may be that he would have
20 just as big an argument on appeal, by saying
21 she should have not been excused.

22 THE COURT: Well, she's already the
23 alternate, she's not on the jury.

24 MR. ANDERTON: I understand.

25 THE COURT: You know, she's just the

1 alternate.

2 You have something you wish to add for
3 the record?

4 MR. BENSON: Your Honor, we're in favor
5 of the Court's position.

6 MR. ANDERTON: Okay.

7 MR. BENSON: That she should be
8 excluded.

9 THE COURT: Have you talked to your
10 client?

11 MR. BENSON: No -- Well, if you mind
12 just giving me a moment I'll talk to him.

13 THE COURT: Okay.

14 (Off the record.)

15 MR. BENSON: Your Honor, my client
16 concurrs. This juror probably
17 should be excluded.

18 THE COURT: All right, I'm going to
19 exclude her. Okay.

20 Okay, next question. (Pause) Who are
21 those people out there, are they family?

22 MR. BENSON: The majority is family.
23 One of them won't be in, she's a potential
24 witness. So she'll be outside the
25 courtroom.

1 As I stated a moment ago, I will
2 certainly get with the others and tell them
3 the talking needs to cease and desist.

4 THE COURT: There's no doubt in my mind
5 whoever said, "He don't want to go back to
6 jail", is trying to influence the jury by
7 making that comment.

8 Certainly it's gross negligence.

9 All right. Let's go back in.

10 She's excused.

11 (Whereupon, the alternate juror
12 was excused.)

13 (Whereupon, the following was
14 heard in open court with the
15 Defendant and all counsel present,
16 the jury is present.)

17 THE COURT: Ladies and gentlemen, y'all
18 go in the jury room for a second.

19 (Whereupon, the jury leaves the
20 courtroom, and the following is
21 heard outside their presence.)

22 THE COURT: Those of you all that are
23 here in the courtroom with the Defendant,
24 you all have a right to be here. And we're
25 glad to have you here in our courtroom.

1 But, because these are serious proceedings,
2 you must be on your best behavior.

3 Now, I just had to excuse a juror
4 because you all were talking in my
5 courtroom. And the woman heard you all
6 talking about him being in jail, and him not
7 wanting to go back to jail.

8 First of all, you should not have been
9 talking period in the courtroom. And second
10 of all, you certainly should not have been
11 saying anything about him in jail.

12 While you are in this courtroom, do not
13 talk. If you want to talk, go outside and
14 talk quietly. If you all cause a mistrial,
15 he's going to be sitting in jail until the
16 next trial date. Which may be two months
17 from now. I don't know. So you don't want
18 to do anything to cause a mistrial in this
19 case. So be on your best behavior.

20 When the jury comes and goes. No one
21 needs to be on that front row. Okay. Where
22 they have to walk right past there. Okay.

23 Anything for the State?

24 MR. ANDERTON: Nothing, Your Honor.

25 THE COURT: Anything for the defense?

1 MR. BENSON: No, Your Honor.

2 THE COURT: Bring them in.

3 (Whereupon, the jury returns to
4 the courtroom where the following
5 was heard in open court with the
6 Defendant and all counsel
7 present.)

8 THE COURT: All right. Ladies and
9 gentlemen, first of all, you all are our
10 jury for the trial of this case. And let me
11 just say this:

12 Serving as a juror is an honor. It's a
13 matter of civic pride. It is one of the
14 most important things that we do as citizens
15 in this country, serve on juries. It's
16 right up there along with voting. Those are
17 the two most important civic
18 responsibilities that we have.

19 And when you are serving as a juror in
20 the case, you have responsibility to make
21 sure that you are not doing anything
22 improper, okay.

23 So if you have a question about whether
24 you should or should not be doing something,
25 I would caution you, probably, not to do it

1 until you check with the court, okay. If
2 you have a question in your mind.

3 Okay, let's go ahead then and get
4 started.

5 First thing I'd like to do is review
6 the charges. And then we're gonna talk
7 about some other things to kind of get you
8 familiar with the process.

9 How many have served on a jury before?

10 (Jurors indicate by raising their
11 hands.)

12 THE COURT: Couple. Okay. So this
13 should be helpful for the rest.

14 The Defendant, as I said before, enters
15 into the court presumed to be innocent.
16 That is, he comes into the court with the
17 presumption of innocence around him. And
18 that coat of presumption of innocence
19 follows him throughout the trial, until such
20 time, as the State, through the D.A.'s
21 Office there, can prove beyond a reasonable
22 doubt that he is guilty.

23 In other words, the Defendant has no
24 burden of proof. The burden of proof is on
25 the State because the State brought the

1 charges. Okay. These charges against the
2 Defendant, charging him with trafficking,
3 failure to affix a tax stamp and possession
4 of drug paraphernalia.

5 These charges are not evidence. It's
6 simply the way we notify a person who is
7 accused of committing a crime of the formal
8 charge or charges against him or her. And
9 that's why you are here. To determine if
10 the State can prove beyond a reasonable
11 doubt the Defendant's guilt.

12 What is a reasonable doubt? It's a
13 doubt that you can give a good, sound,
14 sensible reason for. A good, sound,
15 sensible reason for.

16 Say I have a reasonable doubt of the
17 Defendant's guilt because of this fact, or
18 that fact. Or because of a review of all of
19 the evidence, or some part of the evidence,
20 or from a lack of evidence. If you do not
21 have a reasonable doubt, you convict. If
22 you do, you acquit.

23 You, ladies and gentlemen, are the
24 finders of facts in this case from the
25 evidence. And in determining the guilt or

1 innocence of this Defendant, you should not
2 go outside of the evidence that you receive
3 from this witness stand. Except you should
4 use your good common sense and life
5 experiences that you've gained during the
6 course of your lives. You want to take that
7 good common sense with you back in the jury
8 room during your deliberations and use them.

9 So when you go back there, you're going
10 to have the testimony that you've heard, you
11 are going to have exhibits that I have
12 allowed into evidence for your
13 consideration, along with your good common
14 sense, education, life experiences and
15 training. Okay.

16 It would be your job, as the judges of
17 the facts, to determine the credibility, the
18 believability, of the witnesses who testify
19 during the course of the trial. In other
20 words, it would be your job to determine how
21 much weight you give to the testimony of the
22 witnesses.

23 For example, one witness you might say,
24 hum I give that witness a lot of
25 credibility, give their testimony a lot of

1 weight. And the next witness you might say,
2 I don't give that witness's testimony much
3 weight or much credibility. You see what I
4 mean?

5 Then, at the end of the trial, you take
6 the evidence when you go back there that you
7 believe. That you find credible, worthy of
8 belief. And you ask yourself, does this
9 evidence convince me beyond a reasonable
10 doubt of the Defendant's guilt. If it does,
11 you convict. If it does not, you acquit.

12 I am the judge of the law. It's my job
13 to rule on objections that the attorneys
14 make during the course of the trial. And
15 you are not to presume anything from the
16 rulings that I make on the attorney's
17 objections. The attorneys are duty bound to
18 make objections when they think it is
19 proper. If an attorney objects and the
20 Court says, "sustained", that means the
21 witness cannot answer the question. If the
22 Court says, "overruled", that means the
23 witness is free to answer the question.

24 During the pendency of the case - and
25 they tell me it's not going to be a long

1 trial - do not discuss this case or your
2 feelings about similar matters among
3 yourselves. Okay. In other words, you
4 don't want to say, well, you know, last week
5 one of my coworkers, two weeks ago, had jury
6 duty. And they were on a similar case to
7 this, and this is what happened -- Don't do
8 that. Because see, then that gets that case
9 over in this case, and we don't want that.
10 Don't go on the internet to look up any
11 terms or try to do some research. Why?

12 Because you are going outside of what I
13 just instructed you to. And that's to get
14 your evidence from the courtroom, here, from
15 this witness stand, and the exhibits, and
16 your good ole common sense, okay.

17 So don't let anyone talk to you about
18 this case during the pendency. And the 12
19 of you are to only talk about it once I give
20 it to you for your deliberations, okay.
21 Okay.

22 I think Billy mentioned earlier during
23 voir dire that the attorneys may not speak
24 to you if they see you outside, or in the
25 hallways, or coming and going. That is

1 because they are attempting to avoid the
2 appearance of impropriety. It wouldn't look
3 right if I was leaving and I looked over and
4 I saw one of you and one of these attorneys
5 huddled over in a corner, talking, would it?
6 You wouldn't want that. And it wouldn't be
7 fair to either side. So that's why they
8 don't talk to you because they are
9 attempting to avoid the appearance of
10 impropriety.

11 Normally, we'll have a morning recess
12 about 10:30ish and an afternoon recess about
13 3ish. We normally start at nine and 1:30.
14 Today that will probably be a little
15 different. Because we have a little
16 different afternoon schedule, but I will
17 tell you about that when we break.

18 Okay. This is the trial procedure that
19 we will follow. We will begin with the
20 opening statements of the attorneys. In
21 opening statements the attorneys are allowed
22 to tell you what they expect the evidence to
23 show in the case. To kind of give you a
24 preview of coming attractions sort-of-speak.
25 They tell you what they expect the evidence

1 to show in the case. Kind of give you a
2 road map of where they plan to take you.
3 The State will proceed first, then the
4 defense will proceed.

5 After that, the State will begin
6 calling witnesses to the witness stand in an
7 effort to try to begin convincing you of the
8 Defendant's guilt. The State will get to
9 question the witness. Then the defense will
10 get to cross-examine the witness. And
11 different rules apply depending upon whether
12 you called the witness or whether the other
13 party called the witness.

14 At some point, the State will look to
15 the Court and say that the State rests.
16 That means that they have called the
17 witnesses that they wish to as of that time.
18 And at that time, I will need to take up a
19 legal matter with the attorneys out of your
20 presence.

21 After that, we will then turn to the
22 defense. And we'll ask the defense to call
23 what witnesses that they may. And they
24 don't have to because they don't have any
25 burden. But they do have the right to call

1 whatever witnesses that they wish to. So
2 once the defense calls a witness. Then, the
3 State gets to question or cross-examine the
4 witness also.

5 Then, at some point, the defense will
6 look to the Court and say the defense rests.
7 And I will take up another legal matter with
8 the lawyers. That we have to, procedurally
9 speaking.

10 After you've heard all of the evidence,
11 then the attorneys will engage in closing
12 arguments to you. And in closing arguments
13 the attorneys are allowed to review all of
14 the evidence that they have presented from
15 their vantage point. From their view point.
16 To review the key points on their respective
17 sides with you. And they also are allowed
18 to argue inferences from the evidence in
19 closing arguments for your consideration.

20 Because the State has the burden of
21 proof, the State will argue their case first
22 and last. With the defense arguing their
23 case in the middle.

24 Finally, after closing arguments the
25 Court will instruct you as to the law that

1 you should apply in the case. Then you will
2 begin deliberations, okay.

3 The rule is in effect. Anyone that's
4 going to testify as a witness must wait
5 outside. Do not discuss your testimony with
6 anyone other than the attorneys. Each side
7 is responsible for enforcement of the rule
8 on their respective sides.

9 (Brief pause.)

10 THE COURT: The charges are quite
11 simple.

12 The trafficking count charging Durrell
13 Bester with either knowingly bringing into
14 this State being in actual or constructive
15 possession of 28 grams, but less than 500
16 grams of cocaine. That's trafficking.
17 Which is based on the amount.

18 The second count is failure to affix a
19 tax stamp to those drugs that he was alleged
20 to have been in possession of. Because the
21 law says, if you are gonna have drugs, you
22 have to get tax stamps and put them on the
23 drugs.

24 The third count is simply drug
25 paraphernalia count. Alleging that he had

1 syringes, Brillo pads, an ashtray, a pill
2 splitter and a push rod used for unlawfully
3 injecting cocaine in his possession.

4 So it will be your job to determine
5 whether or not the State can prove these
6 charges beyond a reasonable doubt. Okay.

7 All right. So let's turn our attention
8 now to the -- Oh, let me say this.

9 When we begin taking testimony, we will
10 give you note pads and a pencils so that you
11 can make notes of testimony that you wish to
12 memorialize for your later consideration,
13 okay.

14 What the lawyers say is not evidence.
15 So in opening statements you will not have
16 the note pads and pencils to make notes.

17 So once the testimony begins, we will
18 give you notepads and pencils. Because once
19 you're back there deliberating, you can't
20 send me a note that says, "Judge, what did
21 the second witness say about the color of
22 the car?"

23 I cannot comment on it. Because that's
24 your job. To determine what the facts are
25 in the case, okay? All right.

1 Let's turn our attention now to the
2 State and let's hear their opening
3 statement.

4 Mr. Anderton, you have the floor.

5 (Whereupon, the State presented
6 their opening statement to the
7 jury, there being no objections or
8 exceptions taken thereto.)

9 (Whereupon, the defense presented
10 their opening statements to the
11 jury, there being no objections or
12 exceptions taken thereto.)

13 THE COURT: State, are you prepared to
14 call your first witness?

15 MR. ANDERTON: We are, Your Honor.

16 THE COURT: Call your first witness.

17 MR. ANDERTON: The State calls Mark
18 Eaton.

19 DEPUTY MARK EATON,

20 A witness for the State,
21 Was duly sworn and testified as follows:

22 THE COURT: Have a seat, get
23 comfortable, scoot up towards the
24 microphone, watch your knees down there.

25 (Witness complies.)

1 THE COURT: State your full name for
2 the record, please, sir.

3 THE WITNESS: Mark Eaton.

4 THE COURT: Go ahead, State.

5 DIRECT EXAMINATION

6 BY MR. ANDERTON:

7 Q. Mr. Eaton, where do you work?

8 A. I work at the Jefferson County Sheriff's
9 Office.

10 Q. In what capacity?

11 A. I'm an investigator for the Vice and
12 Narcotics Unit.

13 Q. All right. As an investigator for the Vice
14 and Narcotics Unit, what do you do, Mark?

15 A. My job is to investigate complaints, or
16 reports we get of people that are selling drugs.
17 Take the investigation to the point of purchasing
18 drugs from these individuals, and then executing
19 search warrants.

20 Q. Okay. And how long have you been working
21 with the Jefferson County Sheriff's Office?

22 A. 14 years.

23 Q. Okay. And how long have you been an
24 investigator with the narcotics department?

25 A. Five years.

1 Q. All right. During the course of that time,
2 is it Sergeant Eaton, is it Officer Eaton, what is
3 it?

4 A. Deputy.

5 Q. Deputy Eaton?

6 Deputy, during the course of that 14 years
7 with the Sheriff's Office have you had occasion to
8 participate in the execution of search warrants?

9 A. Yes, sir.

10 Q. All right. And during the course of the
11 last five years have you had occasion to in fact
12 secure a search warrant, and execute them
13 yourself?

14 A. Yes, sir.

15 Q. All right.

16 Deputy, let me direct your attention to the
17 24th of March, 2008 and ask you if you remember
18 that particular occasion.

19 A. Yes, sir.

20 Q. All right. Based on the events of that day,
21 had you come to know a fellow by the name of
22 Durrell Bester?

23 A. Yes, sir.

24 Q. And do you see Mr. Bester in court today?

25 A. Yes, sir.

1 Q. Would you point him out and tell me what
2 he's wearing today, please?

3 A. He's sitting right over there (pointing)
4 wearing a white shirt and dark colored tie, and
5 slacks.

6 Q. All right?

7 MR. ANDERTON: Your Honor, if the
8 record could reflect the witness as
9 indicated the Defendant, Durrell Bester?

10 THE COURT: So noted.

11 Q. Now, Deputy Eaton, prior to March 24th, 2008
12 did you in fact secure a search warrant for the
13 person of and the apartment of Durrell Bester?

14 A. For the person and the residence of Durrell
15 Bester, yes, sir.

16 Q. Okay. And did you in fact serve that search
17 warrant at the time you wanted to serve that
18 search warrant?

19 A. Not at the exact time.

20 Q. Okay. And tell us what happened prior to
21 actually serving that search warrant.

22 A. We had surveillance on the residence. Deputy
23 Washington and Sergeant French were sitting on the
24 streets and watching the residence while we were
25 briefing for the search warrant and preparing to go

1 execute the search warrant.

2 Q. Okay.

3 A. While they were sitting there they observed a
4 pickup truck come --

5 MR. BENSON: Objection, Your Honor, to
6 the Detective -- or Deputy testifying to
7 what another officer saw.

8 THE COURT: Sustained.

9 Q. All right.

10 When were you -- were you notified that
11 something was going on over at the apartment?

12 A. Yes. They called me on the radio.

13 Q. Okay. And Did you in fact have a
14 conversation with them?

15 A. Yes, sir.

16 Q. All right. When was the first time that you
17 arrived on any scene concerning this
18 investigation?

19 A. It was just a few minutes later.

20 Q. All right. And where did you arrive?

21 A. I came to the location, 1100 Center Point
22 Road at the Bama Gas Station, where the pickup
23 truck had left that residence and come to this
24 location.

25 Q. All right. And at that time, did you see

1 the individual you know as Durrell Bester?

2 A. No, I didn't -- I couldn't tell who was in
3 the vehicle at that time. I only saw the vehicle.

4 Q. Okay. Did the vehicle stay there?

5 A. No.

6 Q. Stay there at that gas station?

7 A. No, sir.

8 Q. Okay. Where did it go?

9 A. It left out of the gas station, and we
10 followed it to an apartment at the Twin Gates
11 Apartment Complex on Huffman Road on the other side
12 of Center Point Parkway.

13 Q. All right. And the Twin Gates Apartment
14 Complex is that here in Jefferson County?

15 A. Yes, sir.

16 Q. Is it in the Birmingham Division of
17 Jefferson County?

18 A. Yes, sir.

19 Q. All right. Once the truck -- You said you
20 were following a truck?

21 A. Yes, sir.

22 Q. Did you see anybody get out of that truck?

23 A. Yes, sir.

24 Q. Okay. Who did you see get out of that
25 truck?

1 A. When it arrived at the apartment complex, I
2 saw Mr. Bester and a white male, who we didn't know
3 at that time, get out of the pickup truck.

4 Q. All right. And what, if anything, did they
5 do at that point?

6 A. They both walked into an apartment there at
7 the apartment complex --

8 Q. Do you know what apartment that was?

9 A. It was letter E.

10 Q. All right. Let me show you --

11 MR. ANDERTON: Judge, may I approach?

12 THE COURT: Yes, you may freely.

13 Q. Let me show you what's been marked as
14 State's Exhibit No. 1, for identification
15 purposes, and see if you can identify that,
16 please?

17 A. Yes, sir. This is the apartment door with
18 the letter number E on the door that the Defendant
19 went into to.

20 Q. Okay. Did you go into that apartment at
21 that time?

22 A. No, sir.

23 Q. Who went into that apartment at that time?

24 A. At that time, none of us went into the
25 apartment only the Defendant and the white male

1 that got out of the truck with him.

2 Q. Okay. When Mr. Bester got out of the car --
3 truck, and went into the apartment, was he
4 carrying anything?

5 A. Yes, sir. He had a white bag in his hand.

6 Q. Okay. About how long was Mr. Bester and
7 this white male were they in the apartment?

8 A. One to two minutes, approximately.

9 Q. Then what happened?

10 A. They came out, got back in the truck, and
11 drove away from the apartment complex.

12 Q. Okay. When Mr. Bester left that apartment
13 complex -- When he walked out of the apartment,
14 excuse me, and walked back to the truck, did he
15 have white bag with him at that point?

16 A. No, sir.

17 Q. Okay. What happened once Mr. Bester and
18 this white male got back into the truck and drove
19 off?

20 A. We began to follow on Mr. Bester, and we
21 called for a patrol unit to come stop him.

22 Q. Okay. Who is we?

23 A. It was myself, most of the members of the
24 narcotic unit, other than Sergeant French and
25 Deputy Washington. They stayed at the Twin Gates

1 and watched the apartment while we followed Mr.
2 Bester to try and get him pulled over by a patrol
3 vehicle.

4 Q. All right. What type of automobile were
5 y'all in?

6 A. All of them were unmarked cars, SUVs and
7 different cars --

8 Q. Okay. But you didn't have any marked units
9 with you at that time --

10 A. No, sir. No, sir.

11 Q. Okay. So you weren't following him in a
12 marked unit?

13 A. No, sir.

14 Q. Okay. And why not?

15 A. Part of our job is to do undercover work.
16 And we don't want to people to know who we are
17 until it's time for us to do so.

18 Q. All right. Now, there are unmarked cars out
19 there, Deputy Eaton, are there not, that have the
20 blue lights and the sirens and all this kind of
21 stuff?

22 A. Yes, sir.

23 Q. All right. When you indicated that you
24 called for a patrol unit, why didn't -- Were your
25 vehicles equip with all the blue lights and all

1 the other stuff?

2 A. No, sir. We don't have lights or sirens in
3 our vehicles.

4 Q. Okay. All right. So you said you called
5 for a patrol unit?

6 A. Yes, sir.

7 Q. And what was the purpose in calling for the
8 patrol unit?

9 A. We were calling them to come make a traffic
10 stop on Mr. Bester since I already had a search
11 warrant for him also, and to stop him so that we
12 could detain him.

13 Q. All right. Did you notice anything about
14 the automobile that they were riding in also?

15 A. Yes. It was a pickup truck with a lot of
16 luggage and other type of things in the back-end of
17 the pickup truck.

18 Q. Okay. Was there anything about the tag that
19 was unusual?

20 A. Yes. You couldn't see the year sticker. I
21 believe it was the year sticker. The tag was
22 askewed and you couldn't tell if it was a good tag
23 on the vehicle or not.

24 Q. Okay. And did in fact a patrol unit arrive
25 on the scene?

1 A. Yes, sir.

2 Q. All right. Did the truck pull over?

3 A. Yes, sir.

4 Q. All right. The patrol unit, now it's a
5 marked unit; is that right?

6 A. Yes, sir.

7 Q. Got the lights, got the siren and got the
8 door markings and stripes, and all that stuff,
9 right?

10 A. Yes, sir.

11 Q. Okay. So it would be easily recognizable as
12 an official sheriff's car?

13 A. Yes, sir.

14 Q. And did the truck pull over?

15 A. Yes, sir.

16 Q. Okay. What happened next?

17 A. Deputy Daniels, was the patrol officer that
18 stopped the vehicle for us. He approached the
19 vehicle on the driver's side. And I pulled up and
20 approached the vehicle on the passenger side with
21 him.

22 Q. Okay. What happened next?

23 A. As we walked up to the car, I went ahead and
24 got Mr. Bester out of the vehicle and informed him
25 that we had a search warrant for the residence that

1 he was staying at, as well has him. And I placed
2 him in handcuffs and I put him in the back seat of
3 the patrol vehicle.

4 Deputy Daniels talked to the two white male
5 subjects that were in the car with them also.

6 Q. Okay. Not what was said, but could you see
7 that a conversation was taking place between
8 Deputy Daniels and these other two men?

9 A. Yes, sir.

10 Q. Okay. In addition to running drug
11 investigations, do you have any additional duties
12 with the sheriff's office?

13 A. Yes, sir. I'm also the K-9 Handler for the
14 narcotics unit.

15 Q. All right. What is the K-9 Handler?

16 A. I have a -- My responsibility is that I have
17 a dog that's trained to detect narcotics. And I
18 use her on any search warrants to search the
19 residences, as well as vehicles on traffic stops.
20 And she's trained to detect four different types of
21 drugs.

22 Q. All right. What type drugs is she trained
23 to detect?

24 A. She can detect marijuana, methamphetamine,
25 cocaine and heroin.

1 Q. Tell us what is her name.

2 A. Pepsi.

3 Q. All right.

4 THE COURT: What's her name?

5 THE WITNESS: Pepsi.

6 She was named in Europe before she ever
7 came to the United States.

8 Q. All right. Tell us, if you will, what her
9 training is that would qualify her to be a drug
10 dog.

11 A. They go through a series of tests from the
12 time the dogs are brought here to the United
13 States. She was trained by Ricky Barleaf at
14 Alabama Canine Law Enforcement Training Center.
15 It's in Northport, Alabama.

16 There's 30 different drug finds that these
17 dogs have to perform and score well enough on them
18 to be certified as a -- to be used as a drug dog.

19 She passed all of those qualifications. And
20 every year we go back for a week long evaluation
21 and recertification on that training.

22 Q. What type of dog is Pepsi?

23 A. She's German Shepherd.

24 Q. All right. How old is she presently?

25 A. We think she's around four to four and half

1 years-old.

2 Q. Okay. So she would have been about three or
3 three and half, at that time?

4 A. Yes, sir.

5 Q. All right. And at that time was she in fact
6 fully qualified?

7 A. Yes, sir --

8 Q. To be a drug dog?

9 All right. About how long had Pepsi been,
10 I guess, working full-time as a drug dog?

11 A. At that time, I had had her for a year and
12 three months, and she was with a previous handler
13 before me for nine months. So approximately two
14 years with sheriff's office.

15 Q. All right. And when she's not working,
16 where does Pepsi live?

17 A. At my home.

18 Q. And why is that?

19 A. Part of it is when you work a K-9 you form a
20 bond with that K-9, they're your partner, you take
21 care of them, you feed them, you give them water.
22 That way they trust you. And they do what you tell
23 them to do, and obey you and not other people that
24 you come into contact with on the streets.

25 Q. All right. Can you give the ladies and